

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File Number EB-02-AT-239
	)	
Farnell O'Quinn	)	NAL/Acct. No.200232480012
Licensee of Radio Station WUFF	)	
Eastman, Georgia	)	FRN 0004-9860-22
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: July 8, 2002**

By the Enforcement Bureau, Atlanta Office:

**I. INTRODUCTION**

1. In this *Notice of Apparent Liability for Forfeiture* ("NAL"), we find Farnell O'Quinn, licensee of radio station WUFF, Eastman, Georgia, apparently liable for a forfeiture in the amount of four thousand dollars (\$4,000) for willful violation of Section 73.1350(a) of the Commission's Rules ("Rules").<sup>1</sup> We find Farnell O'Quinn apparently liable for failure to operate in accordance with the terms of the station authorization. Specifically, WUFF's transmitter site is not located at its licensed geographical coordinates.

**II. BACKGROUND**

2. On June 11, 2002 an agent of the Federal Communications Commission ("FCC") Enforcement Bureau's Atlanta Field Office ("Field Office") inspected the WUFF transmitter site and antenna structure registration number 1019521 near Eastman, Georgia.<sup>2</sup> The geographical coordinates determined by the agent showed that the antenna structure was located at 32° 13' 18"N Latitude, 083° 13' 04"W Longitude. The licensed geographical coordinates for WUFF are 32° 13' 35"N Latitude, 083° 13' 10"W Longitude. The geographical coordinates specified in the structure's Antenna Structure Registration are 32° 13' 36"N Latitude, 083° 13' 10"W Longitude. This places the actual location of the WUFF transmitter site and antenna structure more than 1/3 of a mile South/Southeast of the authorized location.

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<sup>1</sup> 47 C.F.R. § 73.1350(a)

<sup>2</sup> Farnell O'Quinn is licensee of radio station WUFF as well as owner of the antenna structure used by WUFF.

### III. DISCUSSION

3. Section 73.1350(a) requires that each licensee is responsible for maintaining and operating its broadcast station in accordance with the terms of the station authorization. On June 11, 2002, WUFF's transmitter site was found to be located at geographical coordinates 32° 13' 18"N Latitude, 083° 13' 04"W Longitude, more than 1/3 of a mile from the authorized location of 32° 13' 35"N Latitude, 083° 13' 10"W Longitude.

4. Based on the evidence before us, we find Farnell O'Quinn willfully<sup>3</sup> violated Section 73.1350(a) of the Rules by failing to operate in accordance with the terms of the station authorization by failing to construct its transmitter site and antenna structure for WUFF at the licensed geographical coordinates.

5. Pursuant to Section 1.80(b)(4) of the Rules,<sup>4</sup> the base forfeiture amount for operating at an unauthorized location is \$4,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>5</sup> Considering the entire record, the potential safety hazard to air navigation of this violation, and applying the factors listed above, this case warrants a \$4,000 forfeiture.

### IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>6</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>7</sup> Farnell O'Quinn is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of four thousand dollars (\$4,000) for willful violation of Section 73.1350(a) of the Rules by failing to operate in accordance with the terms of the station authorization by failing to construct the transmitter site and antenna structure for WUFF at the licensed geographical coordinates.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this *NAL*, Farnell O'Quinn SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

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<sup>3</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act . . . ." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

<sup>4</sup> 47 C.F.R. § 1.80(b)(4).

<sup>5</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>6</sup> 47 U.S.C. § 503(b).

<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>8</sup>

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Farnell O’Quinn, 731 College Street, Eastman, GA 31023.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce  
District Director  
Atlanta Office, Enforcement Bureau

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<sup>8</sup> See 47 C.F.R. § 1.1914.